

By WAYNE-CREWS

H.B. No. 568

A BILL TO BE ENTITLED

AN ACT

~~relating to the licensing of commercial
driver training schools and driver training
instructors by the Department of Public
Safety; and declaring an emergency.~~

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SUBCHAPTER A. GENERAL PROVISIONS

Section 1. SHORT TITLE. This Act may be cited as the
Commercial Driver Training School and Instructor Licensing Act.

Sec. 2. DEFINITIONS. In this Act, unless the context
requires a different definition,

(1) "commercial driver training school" means a business
operated by a person who offers practical or theoretical instruc-
tion in driver training for a fee;

(2) "department" means the Department of Public Safety of
the State of Texas acting directly or through its duly authorized
officers and agents;

(3) "director" means the Director of the Department of
Public Safety of the State of Texas;

(4) "driver training instructor" means any person who
instructs other persons in the operation of a motor vehicle for a
fee;

(5) "licensee" means a person holding a valid license
issued under this Act;

(6) "motor vehicle" includes every vehicle which is self-
propelled and every vehicle which is propelled by electric power
obtained from overhead trolley wires, but not operated upon rails;
and

(7) "person" includes firm, association, partnership, corpo-
ration, and every other business entity.

SUBCHAPTER B. ADMINISTRATION

Sec. 3. DUTIES OF DEPARTMENT. (a) The department shall
prescribe

(1) a commercial driver training school license application
form which requires from each applicant the following information:

(A) the name and address of the applicant;

(B) the name and address of each member, officer, director,
and employee of the school;

(C) the name and business address of the school and each of
its branches;

(D) the name and address of each instructor employed by the
school; and

(E) any other information that the department may require or
is required under the provisions of this Act; and

1 (2) a driver training instructor license application form
2 which requires from each applicant the following information:

3 (A) the name and address of the applicant;

4 (B) the name and address of his present or prospective
5 employer; and

6 (C) any other information that the department may require or
7 is required under the provisions of this Act.

8 (b) The department shall also

9 (1) adopt substantive rules

10 (A) defining conduct which, if engaged in by a person in the
11 business of operating a driver training school or by a driver
12 training instructor instructing persons in the safe operation of a
13 motor vehicle, justifies the suspension or revocation of a license,
14 or the refusal to issue or renew a license;

15 (B) prescribing standards for maintenance of adequate office
16 and classroom space and motor vehicle facilities to insure adequate
17 driver instruction;

18 (C) providing for the form and type of examination required
19 of each applicant for a driver training instructor license;

20 (D) prescribing minimum standards for driver training courses
21 taught in secondary schools of this state; and

22 (E) necessary to accomplish the purposes of this Act; and

23 (2) adopt procedural rules

24 (A) describing how a person applies for a license under this
25 Act;

26 (B) prescribing the form and content of the license certifi-
27 cates; and

28 (C) implementing the notice and hearing provisions of this
29 Act.

30 (c) The department shall, during regular business hours,
31 periodically inspect the places of business, books, and records of
32 licensees and license applicants under this Act to insure com-
33 pliance with the provisions of this Act.

34 Sec. 4. DUTY TO COOPERATE WITH DEPARTMENT. A licensee or
35 license applicant shall permit the inspections required by
36 Section 3(c) of this Act and cooperate with the department in con-
37 ducting them.

38 Sec. 5. PROCEDURE FOR ADOPTING AND AMENDING SUBSTANTIVE
39 RULES. (a) Before the department may adopt a substantive rule
40 under this Act, it must mail a copy of the proposed rule or amend-
41 ment, or an informative summary of the rule or amendment, to each
42 licensee under this Act.

43 (b) The department, before adopting a rule during the
44 period January 1 through June 30, 1968, shall, in addition to
45 complying with Subsection (a) of this section, publish a copy or
46 summary of the proposed rule in at least three newspapers with
47 statewide circulation once each week for at least three weeks.

48 (c) The rule or amendment takes effect on the 21st day after
49 the day the copy or summary is mailed or published for the last
50 time as required by Subsections (a) and (b) of this section unless

51 (1) the department specifies that it take effect at a later
52 time; or

53 (2) the department rescinds the order adopting the rule or
54 amendment.

55 (d) The department may rescind, but it may not change, the
56 order adopting a rule or amendment from the time the notice is

1 mailed or published the last time until the rule or amendment takes
2 effect. After the rule or amendment takes effect, the department
3 may repeal or change it only by adopting an order repealing or
4 amending it.

5 (e) If the department rescinds an order adopting a rule or
6 amendment, it may adopt a new rule or amendment at any time, sub-
7 ject to the other requirements of this section, even though the new
8 rule or amendment is on the same subject as the rule or amendment
9 rescinded.

10 (f) The department shall supply each licensee and license
11 applicant under this Act with a copy of the rules of the department
12 and of all changes in the rules.

13 SUBCHAPTER C. LICENSE

14 Sec. 6. LICENSE REQUIRED. (a) No person may

15 (1) engage in the business of operating a commercial driver
16 training school, or branch office of a commercial driver training
17 school, in this state unless he holds a valid license issued under
18 this Act; or

19 (2) teach for hire or tuition in a commercial driver train-
20 ing school or its branch office in this state unless he holds a
21 valid license issued under this Act.

22 (b) Subsections (a) and (b) of this section do not apply to
23 instruction conducted by colleges, universities, or high schools
24 as part of a program of driver education.

25 Sec. 7. APPLICATION FOR LICENSE. A person may apply for a
26 license only on an application form prescribed by the department
27 under Section 3(a) of this Act.

28 Sec. 8. ISSUANCE OF LICENSE. (a) The department shall
29 issue to an applicant

30 (1) a commercial driver training school license only if the
31 applicant

32 (A) has executed a bond in the principal amount of \$10,000,
33 signed by a solvent guaranty company licensed to do business in
34 this state, payable to the department, and conditioned that the
35 principal on the bond will

36 (i) comply with all written and verbal contracts made by
37 the school with any student; and

38 (ii) return to students money collected for tuition and fees
39 if the school does not provide the full period of instruction pro-
40 vided for in the contract;

41 (B) maintains liability insurance insuring the school, the
42 instructors, and any person taking instruction in the following
43 amounts: \$100,000 for bodily injury to or death of one person in
44 a single accident; \$300,000 for bodily injury to or death of two
45 or more persons in a single accident; and \$10,000 for damage to
46 property in a single accident; and

47 (C) complies with minimum standards for driver training
48 courses taught in secondary schools of this state; or

49 (2) a driver training instructor license only if the appli-
50 cant

51 (A) is at least 21 years of age;

52 (B) is a citizen of the United States;

53 (C) is in good health;

1 (D) holds a valid operator's, commercial operator's, or
2 chauffeur's license issued by this state;

3 (E) holds a baccalaureate degree from a college or univer-
4 sity accredited by the American Association of College Registrars
5 and Admissions Officers and evidencing completion of at least six
6 hours of driver safety and education; and

7 (F) has passed an examination conducted by the department to
8 determine the applicant's competency as an instructor.

9 (b) Each applicant for a commercial driver training school
10 license under this Act must provide in the policy referred to in
11 Subsection (a)(1)(B) of this section for notification of intended
12 cancellation in writing to the department by the carrier not later
13 than 20 days immediately preceding the date the carrier intends to
14 cancel the liability insurance policy.

15 Sec. 9. FEES. (a) The fee to apply for a commercial driver
16 training school license is \$200. The annual renewal fee is \$200.

17 (b) The fee to apply for a driver training instructor
18 license is \$25. The annual renewal fee is \$25.

19 (c) In addition to the application fee, an applicant for a
20 commercial driver training school license must pay an investigation
21 fee of \$150 when he applies for an original license. An applicant
22 for a driver training instructor license must pay an examination
23 fee of \$25 upon application for an original license under
24 Section 8(a)(2) of this Act.

25 (d) The fee for a duplicate license is \$2.

26 (e) No license or investigation fee may be refunded upon
27 suspension or revocation of a license. An applicant failing the
28 examination for a driver training instructor license is entitled to
29 a refund of \$10 of his examination fee.

30 Sec. 10. ANNUAL RENEWAL. Except as provided in Section 13
31 of this Act, the department shall renew a license annually upon
32 application and payment of the renewal fee.

33 Sec. 11. DISPLAY OF LICENSE CERTIFICATE. (a) Each commer-
34 cial driver training school or branch office shall display its
35 license certificate in a conspicuous location on the business
36 premises.

37 (b) Each driver training school instructor shall carry his
38 license certificate on his person when giving instruction to a
39 student, and he shall display the license certificate to the
40 department and to any peace officer on request.

41 Sec. 12. DISPOSITION OF FEES. All license fees collected
42 under this Act shall be deposited in the state treasury to the
43 credit of the Operator's and Chauffeur's License Fund. The depart-
44 ment shall administer this Act with money appropriated by the
45 Legislature.

46 Sec. 13. GROUNDS FOR REFUSAL, REVOCATION, OR SUSPENSION OF
47 LICENSE. The department may revoke, suspend, refuse to issue, or
48 refuse to renew a license issued under this Act whenever the
49 licensee or applicant has

50 (1) made a false material statement or has concealed a
51 material fact in connection with his application;

52 (2) used a license issued under this Act after the license
53 has been suspended or revoked or has expired;

1 (3) been convicted of fraud in knowingly attempting to
2 obtain for himself or another a license to operate a motor vehicle;
3 (4) violated any of the provisions of Section 8(a)(1) of
4 this Act if the licensee is a commercial driver training school;
5 and

6 (5) violated any substantive rule of conduct adopted by the
7 department under Section 3(b) of this Act.

8 Sec. 14. PERIOD OF SUSPENSION. The department shall suspend
9 a license for not less than 30 days nor more than one year.

10 Sec. 15. SURRENDER OF LICENSE. Not later than five days
11 after a license is revoked or suspended under Section 13 of this
12 Act, the licensee shall surrender his license. The department may
13 restore a revoked or suspended license to the former licensee upon
14 compliance with the provisions of this Act.

15 SUBCHAPTER D. HEARINGS

16 Sec. 16. ENTITLEMENT TO HEARING. A licensee whose license
17 has been suspended, revoked, or not renewed by the department, or
18 a license applicant who has been denied a license by the department,
19 is entitled to a hearing before a hearing board composed of not
20 less than three employees of the department designated by the
21 director.

22 Sec. 17. DEFINITION. In Sections 18 through 23 of this Act,
23 "contested case" means a proceeding before the board in which the
24 legal rights, duties, or privileges of specific parties are
25 required by law or constitutional right to be determined after a
26 hearing.

27 Sec. 18. HEARING OFFICER. In a contested case, the director
28 shall use a member of the department's staff to serve as the hear-
29 ing officer in the hearing. At the hearing, the hearing officer
30 shall

- 31 (1) preside over the hearing;
- 32 (2) rule on the admissibility of evidence;
- 33 (3) at the direction of the board, prepare the record,
34 decision, and order and the notices for the hearing; and
- 35 (4) assist the board in all legal matters connected with the
36 hearing.

37 Sec. 19. NOTICE, HEARING, RECORDS. (a) In a contested case
38 all parties shall be afforded an opportunity for hearing after
39 reasonable notice. The notice shall state the time, place, and
40 issues involved, but if, because of the nature of the proceeding,
41 the issues cannot be fully stated in advance of the hearing, or if
42 subsequent amendment of the issues is necessary, the issues shall
43 be fully stated as soon as practicable, and opportunity shall be
44 afforded all parties to present evidence and argument with respect
45 to the issues.

46 (b) Informal disposition may also be made of any contested
47 case by stipulation, agreed settlement, consent order, or default,
48 but a written notation of the board's action, stating the ground of
49 disposition, shall be prepared and preserved.

50 Sec. 20. RULES OF EVIDENCE. (a) In contested cases, the
51 board may admit and give probative effect to evidence which pos-
52 sesses probative value commonly accepted by reasonably prudent men
53 in the conduct of their affairs. The board shall give effect to
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1 the rules of privilege recognized by law. It may exclude incompe-
2 tent, irrelevant, immaterial, and unduly repetitious evidence.

3 (b) All evidence, including records and documents of the
4 department the board decides to use, shall be offered and made a
5 part of the record in the case, and no other factual information
6 or evidence may be considered in the determination of the case.
7 Documentary evidence may be received in the form of copies or
8 excerpts, or by incorporation by reference.

9 (c) Every party has the right to cross-examine witnesses
10 who testify and has the right to submit rebuttal evidence.

11 Sec. 21. OFFICIAL NOTICE. The board may take notice of
12 judicially cognizable facts and in addition may take notice of
13 general, technical, and scientific facts within its specialized
14 knowledge. Parties shall be notified either before or during the
15 hearing, or by reference in preliminary reports or otherwise, of
16 the material so noticed, and they shall be afforded an opportunity
17 to contest the facts so noticed. The board may use its experience,
18 technical competence, and specialized knowledge in evaluating the
19 evidence presented to it.

20 Sec. 22. DECISIONS AND ORDERS. Every decision and order
21 adverse to a party to the proceeding rendered by the board in a
22 contested case shall be in writing or stated in the record and
23 shall be accompanied by findings of fact and conclusions of law for
24 each contested issue. Parties to the proceeding shall be notified
25 of the decision and order in person or by mail. A copy of the
26 decision and order and accompanying findings and conclusions shall
27 be delivered or mailed upon request to each party or to his attor-
28 ney of record.

29 Sec. 23. JUDICIAL REVIEW OF CONTESTED CASES. (a) A person
30 aggrieved by a final decision in a contested case, whether the
31 decision is affirmative or negative in form, is entitled to judi-
32 cial review of the decision.

33 (b) Review is instituted by filing a written statement
34 complaining of the board's decision in a district court in the
35 county where the person resides or in a district court of Travis
36 County within 30 days after service of the final decision of the
37 board. The statement shall specify concisely each finding, conclu-
38 sion, or action of the board with which the aggrieved party
39 disagrees. Copies of the statement shall be served upon the board
40 and all other parties of record. The court, in its discretion, may
41 permit other interested persons to intervene.

42 (c) Filing the statement does not stay enforcement of the
43 board's decision; but the board may do so, or the court may order
44 a stay upon such terms as it deems proper.

45 (d) Within 30 days after service of the statement, or within
46 such further time as the court may allow, the board shall transmit
47 to the court the original or a certified copy of the entire record
48 of the case under review; but, by stipulation of all parties to the
49 review proceeding, the record may be shortened. A party unrea-
50 sonably refusing to stipulate to limit the record may be taxed by
51 the court for the additional costs caused by his refusal. The
52 court may require or permit subsequent corrections or additions to
53 the record when considered desirable.
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1 (e) If, before the date set for a review hearing, applica-
2 tion is made to the court for leave to present additional evidence
3 on the issues in the case, and it is shown to the satisfaction of
4 the court that the additional evidence is material and that there
5 were good reasons for failing to present it during the hearing
6 before the board, the court may order that the additional evidence
7 be taken before the board upon such conditions as the court deems
8 proper. The board may add to or modify its findings, conclusions,
9 and decision in light of the additional evidence and shall file
10 with the court, as part of the record, the additional evidence,
11 together with any additions or modifications to its findings,
12 conclusions, or decision.

13 (f) The review shall be conducted by the court and shall be
14 confined to the record, except that in cases of alleged irregu-
15 larities in procedure before the board, not shown in the record,
16 testimony on the alleged irregularities may be taken by the court.
17 The court shall, on request, hear oral argument and receive written
18 briefs.

19 (g) The attorney general shall represent the department in
20 any action before the court.

21 (h) The court may affirm the decision of the board or remand
22 the case for further proceedings; or it may reverse or modify the
23 decision if the substantial rights of a party may have been
24 prejudiced because the board's findings, inferences, conclusions,
25 or decisions are

- 26 (1) in violation of constitutional provisions;
27 (2) in excess of the statutory authority or jurisdiction of
28 the board;
29 (3) made upon unlawful procedure;
30 (4) affected by other error of law;
31 (5) unsupported by competent, material, and substantial
32 evidence in view of the entire record as submitted; or
33 (6) arbitrary or capricious.

34 SUBCHAPTER E. ENFORCEMENT

35 Sec. 24. INJUNCTION. (a) The department, in the name of
36 the state through the attorney general, may apply by sworn petition
37 to a district court for an order enjoining a violation of any
38 provision of this Act.

39 (b) If, after reviewing the petition, the court is satisfied
40 that a person has violated this Act, it may issue a temporary
41 injunction without notice or bond enjoining the violation.

42 (c) If, after a hearing, the court decides that a person has
43 violated or is violating this Act, it may permanently enjoin the
44 violation.

45 (d) Proceedings under this section are in addition to all
46 other penalties and remedies provided by this Act.

47 Sec. 25. PENALTY. A person who violates a provision of
48 Section 4, 6, or 11 of this Act is guilty of a misdemeanor and
49 upon conviction is punishable by imprisonment in the county jail
50 for not more than six months or by a fine of not less than \$1,000
51 or by both.
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SUBCHAPTER F. TEMPORARY PROVISIONS

Sec. 26. LICENSES ISSUED TO DRIVER TRAINING INSTRUCTORS ON EFFECTIVE DATE OF ACT. (a) Any person who is employed as a driver training instructor on January 1, 1968, is entitled to issuance of a driver training instructor license under this Act, valid for not more than one year after the date of its issuance, if he

(1) applies for the license before April 1, 1968; and

(2) pays the required license fee.

(b) Before issuing the license described in Subsection (a) of this section, the department may require satisfactory proof that the applicant is employed by a commercial driver training school and that he satisfies each requirement prescribed by Section 8(a)(2) of this Act, except Section 8(a)(2)(E).

Sec. 27. EFFECTIVE DATE. This Act takes effect January 1, 1968.

Sec. 28. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended.

FORM C

(For a favorable report on a bill where a "committee substitute" was recommended by the committee.)

COMMITTEE REPORT

Date April 19, 1967

HON. BEN BARNES

Speaker of the House of Representatives.

Sir:

We, your Committee on Highways and Roads, to whom was referred H.B. No. 568, have had the same under consideration

and beg to report back with recommendation that it do pass, and be not printed.

Committee Substitute was recommended and is to be printed in lieu of the original bill.

Reed Quillian

Chairman.

(A "committee substitute" in the case of a bill is in the form of two suggested amendments, a new body and a new caption. Under the Rules a committee may authorize the printing of the "committee substitute" in lieu of the original bill. If the original caption is adequate, the "committee substitute" should be only a new body; and in such case the original caption should be printed along with the suggested new body.)

Bill Analysis

(1) Background Information:

The Commercial Driver Training Schools have never been under supervision of the Department of Public Safety.

(2) What the Bill proposes to do:

Place the Commercial Driver Training School under the supervision of the Department of Public Safety.

(3) Section by section analysis:

Section 1: Provides that the short title be the Commercial Driver Training School and Instructor Licensing Act.

Section 2: Defines the terms used in the Act.

Section 3: Requires the Department of Public Safety to provide for the licensing, regulation, and inspection of the commercial driver training schools and training instructors established by this Act.

Section 4: Requires licensees or applicants to cooperate with the Department.

Section 5: Provides for the adoption and amendment of substantive rules by the Department.

Section 6: Requires persons operating or teaching in commercial driver training schools to be licensed by the Department.

Section 7: Requires persons applying for a license to do so on a prescribed application form.

Section 8: Requires applicants for a license to comply with regulations such as the posting of bond and the maintenance of liability insurance before being licensed by the Department.

Section 9: Provides for application, investigation, and renewal fees.

Section 10: Except on grounds specified below the Department shall renew licenses on application.

Section 11: Requires the display of license certificate.

Section 12: Provides for the disposition of all fees.

Section 13: Provides grounds for the refusal, revocation, or suspension of a license.

Section 14: Provides that a license be suspended for not less than thirty days nor more than one year.

Section 15: Requires a license to be surrendered five days after its revocation. 60

pg 7 Section 16: Entitles a licensee whose license has been revoked to a hearing before a board composed of Department employees.

Section 17: Defines "contested case" to mean a proceeding before the Board in which the legal rights of specific parties are required by law or constitutional right to be determined after a hearing.

Section 18: Provides for a hearing officer in contested cases.

Section 19: Provides for advance notice and record of hearings of contested cases.

Section 20: Provides for the administration of rules of evidence by the Board in contested cases.

Section 21: The Board may take judicial notice of facts within its experience, provided it so notifies the contesting parties so that they can refute.

Section 22: Provides that adverse decisions by the Board be in writing, with reasoning stated.

Section 23: Provides for judicial review of contested cases.

Section 24: Permits the Department to petition a district court to issue an injunction forbidding violation of the terms of this Act.

Section 25: Provides punishment for violation of Sections 4, 6, and 11 of this Act.

Section 26: Provides for the issuance of licenses to persons who are driver training instructors as of the effective date of this Act.

Section 27: This Act takes effect on 1 January 1968.

Section 28: Declares an emergency.

(4) Summary of the committee hearing:

At the Committee hearing numerous witnesses testified as to the need for the Bill, although several witnesses pointed out certain weaknesses in the measure as originally drawn.

The subcommittee to which the Bill was referred offered a complete substitute in order to iron out the difficulties which were pointed out in the hearing.

COMMITTEE AMENDMENT

NO. 1

L.M.

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See forward

HOUSE COMMITTEE AMENDMENT TO
H. B. 568

AMENDMENT NO. 1

Section 1. Amend H. B. 568 by striking all below the enacting clause and substituting the following:

Section 1. Definitions of words and phrases. The following words and phrases when used in this Act shall, for the purposes of this Act, have the meanings respectively ascribed to them in this section.

(a) "Commercial driver-training school" or "school" means any enterprise conducted by an individual, association, partnership, or corporation, for the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles and charging a consideration or tuition for such services.

(b) "Commercial driver-training school branch office" is a training facility operated by a commercial driver-training school at a different location than the home training facility where the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles and charging a consideration or tuition therefor is carried on.

(c) "Driver-training instructor" or "instructor" means any person who for hire or for tuition teaches, conducts classes of, gives demonstrations to, or supervises practice of persons learning to operate or drive motor vehicles.

(d) "Department" means the Department of Public Safety of this State, acting directly or through its duly authorized officers and agents.

(e) "Hearing Officer" is an officer or employee of the Department appointed by the Director, which officer or employee shall have a minimum of five years' experience as a supervisor and a thorough knowledge of this Act and the rules and regulations of the Department relative thereto.

(f) "Motor vehicle" includes every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(g) "Supervisory driver-training instructor" or "supervisory instruc-

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3 tor) means any person who, for hire or tuition, conducts classes of, gives demon-
4 stration to, or supervises practice of persons learning to become driver-training
5 instructors, and to operate or drive motor vehicles.

6 Sec. 2. A license required for commercial driver-training school. No
7 person, firm, association, partnership or corporation shall operate a commercial
8 driver-training school after January 1, 1968, unless a license as a commercial
9 driver-training school has been secured from the Texas Department of Public
10 Safety, provided that training or classes conducted by colleges, universities, high
11 schools and junior high schools for regularly enrolled students as a part of the nor-
12 mal program for such institutions shall be exempt.

13 Sec. 3. Application for commercial driver-training school license. The
14 application for a license shall be made on forms supplied by the Texas Department
15 of Public Safety and must state specifically the name and address of such school or
16 training facility, and give the name and address of the person, each member of the
17 firm or association, each member of the partnership or corporation, and of each
18 director and officer of such corporation. The application shall also contain the
19 following information:

20 (a) The name and address of each branch office of such commercial
21 driver-training school;

22 (b) The name and address of each instructor;

23 (c) Such other information relating to the operation of such school
24 as may be required by the Texas Department of Public Safety to insure that the
25 public interest will be protected;

26 (d) An agreement that the school will be operated in conformity with
27 the rules and regulations established by the Texas Department of Public Safety for
28 the operation of commercial driver-training schools.

29 Sec. 4. Before the Department of Public Safety shall issue such license,
30 the person, firm, association, partnership or corporation shall:

31 (a) Execute a bond in the sum of ~~Ten Thousand Dollars~~ ⁶(\$10,000),
32 signed by a solvent guaranty company authorized to do business in the State of Texas,
33 payable to the Texas Department of Public Safety, conditioned that the principal on

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3 said bond will:

4 (1) Carry out and comply with each and all contracts made or
5 entered into by said school or branch school, acting by and through its officers or
6 agents, with any student who desires to enter such school and to take the course in
7 driver-training; and

8 (2) To pay back to such student all amounts collected for tuition
9 and fees in case of failure on the part of the school to comply with its contracts to
10 give the instruction contracted for, and for the period evidenced by such contract on
11 a pro-rata basis.

12 (b) Maintain motor vehicle liability insurance covering the school, in-
13 structors, and any person taking instruction in the amount as prescribed by the
14 Department but in no event less than ~~Ten Thousand Dollars~~ \$10,000 for bodily in-
15 jury to or death of one person in any one accident, and ~~Twenty Thousand Dollars~~
16 \$20,000 for bodily injury to or death of two or more persons in any one accident,
17 and ~~Five Thousand Dollars~~ \$5,000 for damage to property in any one accident. ✓

18 (c) Provide adequate office, classroom and motor vehicle facilities
19 in compliance with the rules and regulations established by the Department of
20 Public Safety to insure that the quality of instruction and training shall not be inimi-
21 cal to the public interest.

22 (d) Comply with such other rules and regulations as may be promul-
23 gated by the Department of Public Safety to insure adequate driver instruction.

24 Sec. 5. License required for supervisory driver-training instructor and
25 driver-training instructor. No person shall teach or give driver-training for hire
26 or for tuition, either as an individual or in a commercial driver-training school,
27 or any phase of driver-training or education after January 1, 1968, unless a license
28 as a driver-training instructor or supervisory driver-training instructor has been
29 secured from the Department, provided that instructors in classes conducted by
30 colleges, universities, high schools and junior high schools for regularly enrolled
31 students as a part of the normal program for such institutions shall be exempt.

32 Sec. 6. Application for supervisory driver-training instructor's license.

33 (a) The application for a license as a supervisory driver-training instructor shall

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3 be made on forms supplied by the Department of Public Safety. A person is quali-
4 fied to receive a supervisory driver-training instructor's license who:

- 5 ①(1) Is at least ~~twenty-one~~ 21 years of age;
6 ①(2) Is of good moral character;
7 ①(3) Is a citizen of the United States;
8 ①(4) Has no contagious disease;
9 ①(5) Holds a valid Texas chauffeur's license;
10 ①(6) Has successfully completed three ~~(3)~~ semester hours in
11 safety education and three ~~(3)~~ semester hours in driver education or their
12 equivalent;
13 ①(7) Has passed an examination conducted by the Department of
14 Public Safety to determine his competency to obtain a license to practice as a
15 supervisory driver-training instructor;
16 ①(8) Has two ~~(2)~~ years' satisfactory driving experience as ap-
17 proved by the Department.

18 ①(b) On the effective date of this Act, any person who is actually en-
19 gaged or employed as a supervisory driver-training instructor and has a minimum
20 of one ~~(1)~~ year's experience in such activity shall, upon application within ninety
21 ~~90~~ days after the effective date of this Act and payment of the required license
22 fees, be issued a supervisory driver-training instructor's license effective no
23 longer than one ~~(1)~~ year from the date of issuance, provided, however, that the
24 Department of Public Safety may require such applicant to submit satisfactory
25 proof that he is so engaged and comply with the requirements set out in ^{Section} ~~Sec.~~ 6 (a)
26 above, except the requirement of subsection (6). Such license shall be renewable
27 annually so long as he complies with Department rules and regulations.

28 ①Sec. 7. Application for driver-training instructor's license. (a) The ap-
29 plication for a license as a driver-training instructor shall be made on forms sup-
30 plied by the Department of Public Safety. A person is qualified to receive a
31 driver-training instructor's license who:

- 32 ①(1) Is at least ~~twenty-one~~ 21 years of age;
33 ①(2) Is of good moral character;

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3 (3) Is a citizen of the United States;

4 (4) Has no contagious disease;

5 (5) Holds a valid Texas chauffeur's license;

6 (6) Has successfully completed ~~forty~~ 40 clock hours in safety
7 education and driver-training under the supervision of a supervisory driver-train-
8 ing instructor.

9 (7) Has passed an examination conducted by the Department of
10 Public Safety to determine his competency to obtain a license to practice as an in-
11 structor;

12 (8) Has two ~~(2)~~ years' satisfactory driving experience as ap-
13 proved by the Department.

14 (b) On the effective date of this Act, any person who is actually en-
15 gaged or employed as a driver-training instructor and has a minimum of one ~~(1)~~
16 year's experience in such activity shall, upon application within ~~ninety~~ 90 days
17 after the effective date of this Act and payment of the required license fees, be
18 issued a driver-training instructor's license effective no longer than one year from
19 the date of issuance, provided, however, that the Department of Public Safety may
20 require such applicant to submit satisfactory proof that he is so engaged and com-
21 ply with the requirements set out in ^{Section} ~~Sec.~~ 7 (a) above, except the requirement of
22 ~~sub~~section (6). Such license shall be renewable annually so long as he complies
23 with Department rules and regulations.

24 Sec. 8. License fees. Each application for an original commercial driver-
25 training school or branch office license shall be accompanied by a ~~One Hundred~~
26 ~~Fifty Dollars~~ \$150 investigation fee and upon approval shall pay an annual license
27 fee of ~~Two Hundred Dollars~~ \$200. The investigation fee shall be payable only once,
28 at the time of the original application. The license of each commercial driver-
29 training school or branch office may be renewed subject to the same requirements
30 as the original license, and upon payment of the annual renewal license fee of ~~Two~~
31 ~~Hundred Dollars~~ \$200. Each application for an original supervisory instructor's
32 or instructor's license shall be accompanied by an investigation and examination
33 fee of ~~Fifty Dollars~~ \$50 and upon approval such applicant shall pay an annual

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3 license fee of ~~Twenty-five Dollars~~ ~~/\$25/~~. The investigation and examination fee
4 shall only be payable with the original application. No license fee shall be re-
5 funded in the event that the license is suspended or revoked.

6 (v) The fee for a duplicate license shall be ~~Two Dollars~~ ~~/\$2/~~. A duplicate lic-
7 ense may be issued to replace an original license if the original is lost or destroyed
8 and an affidavit of such fact is made and filed with the Department.

9 (v) All licenses issued to commercial driver-training schools, branch offices,
10 supervisory instructors, and driver-training instructors shall expire automatically
11 on December 31 of the calendar year for which the license was issued, unless soon-
12 er suspended or revoked as provided by this Act.

13 (v) All fees collected under this Act shall be deposited in the State Treasury in
14 the Operator's and Chauffeur's License Fund.

15 (v) A commercial driver-training school or branch office license must be
16 prominently displayed at the place of business of the commercial driver-training
17 school or branch office. The supervisory driver-training instructor and driver-
18 training instructor license must be carried by the instructor at all times while in-
19 structing. Each license shall be signed by the Director of the Department of Public
20 Safety and shall be issued under the seal of the Department.

21 (v) Sec. 9. Refusal, suspension, revocation grounds. The Department may
22 suspend, revoke or refuse a license to any commercial driver-training school or
23 branch school, supervisory instructor or driver-training instructor on any one or
24 more of the following grounds:

25 (v)(a) When the Department is satisfied that the applicant or licensee
26 fails to meet the requirements to receive or hold a license under this Act;

27 (v)(b) When the applicant or licensee permits fraud or engages in fraud-
28 ulent practices either with reference to the application to the Department, or in-
29 duces or countenances fraud or fraudulent practices on the part of any applicant
30 for a driver's license or permit, or permits or engages in any other fraudulent
31 practice in any action between the applicant or licensee and the public;

32 (v)(c) When the applicant or licensee fails to comply with the rules and
33 regulations of the Department of Public Safety regarding the instruction of drivers

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3 in this State or fails to comply with any section of this Act.

4 Sec. 10. Hearing. (a) When there is cause to refuse an application or to
5 suspend or revoke the license of any commercial driver-training school, branch
6 office, supervisory driver-training instructor, or driver-training instructor, the
7 Department, not less than ~~thirty~~³⁰ days before refusal, suspension, or revoca-
8 tion action is taken, ^{shall} notify such person in writing, in person, or by certified mail
9 at the last address supplied to the Department by such person, of such impending
10 refusal, suspension or revocation, the reasons therefor, and of his right to an ad-
11 ministrative hearing for the purpose of determining whether or not the evidence is
12 sufficient to warrant the refusal, suspension, or revocation action proposed to be
13 taken by the Department. If, within ~~twenty~~²⁰ days after the personal service of
14 such notice or such notice has been deposited in the United States mail, such person
15 has not made a written request to the Department for this administrative hearing,
16 the Department is authorized to suspend or revoke the commercial driver-training
17 school's, branch office's, supervisory driver-training instructor's, or driver-
18 training instructor's license without a hearing. Upon receipt by the Department
19 of such written request of such person within the ~~twenty~~^{20-day} day period as set out
20 above, an opportunity for an administrative hearing shall be afforded as early as
21 is practical. In no case shall the hearing be held less than ~~ten~~¹⁰ days after writ-
22 ten notification thereof, including a copy of the charges, shall have been given the
23 person by personal service or by certified mail sent to the last address supplied to
24 the Department by the applicant or licensee. Administrative hearing in such cases
25 shall be before a qualified Hearing Officer of the Department.

26 (b) The Department, represented by the Hearing Officer, shall conduct
27 the administrative hearing and the Hearing Officer is authorized to administer oaths
28 and issue subpoenas for the attendance of witnesses and the production of relevant
29 books, papers, documents, etc. On the basis of the evidence submitted at the hear-
30 ing, the Department shall take whatever action it deems necessary in refusing the
31 application or suspending or revoking the license.

32 Sec. 11. Judicial review. Any person dissatisfied with the action of the
33 Department in refusing his application, or suspending or revoking his license, or

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court or any judge thereof may enter a decree perpetually enjoining the violation of or enforcing compliance with this Act. In case of violation of any order or decree issued under the provisions of this section, the court or any judge thereof may try and punish the offender for contempt of court. Proceedings under this section shall be in addition to and not in lieu of all other remedies and penalties provided by this Act.

Sec. 14. No motor vehicle driver-training instruction shall be conducted for hire or tuition unless in a licensed commercial driver-training school or one of its branch offices except as set out in Section 2 and in counties with a population of less than ~~twenty-five thousand~~ (25,000) where driver-training instruction may be given by a supervisory instructor or instructor not connected with or in a commercial driver-training school.

Sec. 15. Penalties. Any person who violates any provision of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ~~One Hundred Dollars~~ (\$100) nor more than ~~One Thousand Dollars~~ (\$1,000), or by imprisonment in the county jail for a term of not to exceed six ~~to~~ months, or both.

Sec. 16. Constitutionality. If any part or parts of this Act shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act. The Legislature hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts thereof would be declared unconstitutional.

Sec. 17. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended. (Over)

DATE MAY 1 1967

READ AND ADOPTED *as Amended*
Dorothy Hallman
CHIEF CLERK
HOUSE OF REPRESENTATIVES

P.M.

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3 any other action of the Department, may appeal the action of the Department by
4 filing a petition within ~~thirty~~³⁰ days thereafter in the district court in the county
5 where the person resides or in the District Court of Travis County, Texas, and
6 the court is vested with jurisdiction, and it shall be the duty of the court, to set
7 the matter for hearing upon ~~ten~~¹⁰ days' written notice to the Department and
8 the attorney representing the Department. The court in which the petition of appeal
9 is filed shall determine whether or not the suspension or revocation of the license
10 shall be abated until the hearing shall have been consummated with final judgment
11 thereon, or whether any other action of the Department shall be suspended pending
12 hearing, and enter its order accordingly, which shall be operative when served
13 upon the Department, and the court shall provide the attorney representing the
14 Department with a copy of the petition and order. The Department shall be repre-
15 sented in such appeals by the district or county attorney of the county, or the
16 Attorney General, or any of their assistants. The trial on such appeal shall be de
17 novo as in cases appealed from the justice to the county court.

18 Sec. 12. Surrender of license. Upon the revocation or suspension of any
19 license, the licensee shall within five ~~5~~ days surrender the license or licenses
20 to the Department; failure of a licensee to do so shall be a violation of this Act and
21 upon conviction shall be subject to the penalties hereinafter set forth. The Depart-
22 ment may restore a suspended license to the former licensee upon full compliance
23 with the provisions of this Act. No suspension invoked hereunder shall be for a
24 period less than ~~thirty~~³⁰ days nor longer than one ~~12~~ year.

25 Sec. 13. Proceedings through the Attorney General. If any person violates
26 any of the provisions of this Act, the Director of the Department of Public Safety
27 shall, in the name of the State of Texas through the Attorney General of the State of
28 Texas, apply in any district court of competent jurisdiction for an order enjoining
29 such violation or for an order enforcing compliance with this Act. Upon the filing
30 of a verified petition to the court, if the court or any judge thereof is satisfied by
31 affidavit or otherwise that the person has violated this Act, it may issue a tempo-
32 rary injunction without notice or bond enjoining such continued violation, and if
33 after a hearing it is established that the person violated or is violating this Act the

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Amend Committee Amendment to House Bill No. 568 by adding a new sentence after the period on line 26 of page two thereof, to read as follows:

In the event the insurance coverage hereinabove referred to is to be cancelled, a copy of the written notice of cancellation must be furnished forthwith to the Director by either registered or certified mail.

DATE MAY 1 1967

READ AND ADOPTED

Dorothy Hallman
CHIEF CLERK
HOUSE OF REPRESENTATIVES

f m.

COMMITTEE AMENDMENT #2

W. J. Howard
pd

Amend H. B. 568 by striking all above the enacting clause and substituting the following:

Insert
(2)

① A BILL

① To be entitled

① An Act relating to the licensing of commercial driver-training

schools, supervisory driver-training instructors, and
driver-training instructors by the Department of Public
Safety; providing a penalty; and declaring an emergency. ①

MAY 1 1967

DATE

READ AND ADOPTED

Dorothy Hallman
REPRESENTATIVE

L.M.

By: Wayne, Crews of Montgomery

H.B. No. 568

A BILL TO BE ENTITLED

AN ACT

relating to the licensing of commercial driver-training schools, supervisory driver-training instructors, and driver-training instructors by the Department of Public Safety; providing a penalty; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Definitions of words and phrases. The following words and phrases when used in this Act shall, for the purposes of this Act, have the meanings respectively ascribed to them in this section:

(a) "Commercial driver-training school" or "school" means any enterprise conducted by an individual, association, partnership, or corporation, for the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles and charging a consideration or tuition for such services.

(b) "Commercial driver-training school branch office" is a training facility operated by a commercial driver-training school at a different location than the home training facility where the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles and charging a consideration or tuition therefor is carried on.

(c) "Driver-training instructor" or "instructor" means any person who for hire or for tuition teaches, conducts classes of, gives demonstrations to, or supervises practice of persons learning to operate or drive motor vehicles.

(d) "Department" means the Department of Public Safety of this state, acting directly or through its duly authorized officers and agents. _____

(e) "Hearing Officer" is an officer or employee of the Department appointed by the Director, which officer or employee shall have a minimum of five years' experience as a supervisor and a thorough knowledge of this Act and the rules and regulations of the Department relative thereto. _____

(f) "Motor vehicle" includes every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails. _____

(g) "Supervisory driver-training instructor" or "supervisory instructor" means any person who, for hire or tuition, conducts classes of, gives demonstration to, or supervises practice of persons learning to become driver-training instructors, and to operate or drive motor vehicles. _____

Sec. 2. A license required for commercial driver-training school. No person, firm, association, partnership, or corporation shall operate a commercial driver-training school after January 1, 1968, unless a license as a commercial driver-training school has been secured from the Texas Department of Public Safety, provided that training or classes conducted by colleges, universities, high schools, and junior high schools for regularly enrolled students as a part of the normal program for such institutions shall be exempt. _____

Sec. 3. Application for commercial driver-training school license. The application for a license shall be made on forms _____

supplied by the Texas Department of Public Safety and must state specifically the name and address of such school or training facility, and give the name and address of the person, each member of the firm or association, each member of the partnership or corporation, and of each director and officer of such corporation. The application shall also contain the following information: _____

(a) The name and address of each branch office of such commercial driver-training school; _____

(b) The name and address of each instructor; _____

(c) Such other information relating to the operation of such school as may be required by the Texas Department of Public Safety to insure that the public interest will be protected; _____

(d) An agreement that the school will be operated in conformity with the rules and regulations established by the Texas Department of Public Safety for the operation of commercial driver-training schools. _____

Sec. 4. Before the Department of Public Safety shall issue such license, the person, firm, association, partnership, or corporation shall: _____

(a) Execute a bond in the sum of \$10,000, signed by a solvent guaranty company authorized to do business in the State of Texas, payable to the Texas Department of Public Safety, conditioned that the principal on said bond will: _____

(1) Carry out and comply with each and all contracts made or entered into by said school or branch school, acting by and through its officers or agents, with any student who desires to enter such school and to take the course in driver-training; and _____

(2) To pay back to such student all amounts collected for tuition and fees in case of failure on the part of the school to comply with its contracts to give the instruction contracted for, and for the period evidenced by such contract on a pro rata basis. _____

(b) Maintain motor vehicle liability insurance covering the school, instructors, and any person taking instruction in the amount as prescribed by the Department but in no event less than \$10,000 for bodily injury to or death of one person in any one accident, and \$20,000 for bodily injury to or death of two or more persons in any one accident, and \$5,000 for damage to property in any one accident. In the event the insurance coverage hereinabove referred to is to be cancelled, a copy of the written notice of cancellation must be furnished forthwith to the Director by either registered or certified mail. _____

(c) Provide adequate office, classroom, and motor vehicle facilities in compliance with the rules and regulations established by the Department of Public Safety to insure that the quality of instruction and training shall not be inimical to the public interest. _____

(d) Comply with such other rules and regulations as may be promulgated by the Department of Public Safety to insure adequate driver instruction. _____

Sec. 5. License required for supervisory driver-training instructor and driver-training instructor. No person shall teach or give driver-training for hire or for tuition, either as an individual or in a commercial driver-training school, or any phase

of driver-training or education after January 1, 1968, unless a license as a driver-training instructor or supervisory driver-training instructor has been secured from the Department, provided that instructors in classes conducted by colleges, universities, high schools, and junior high schools for regularly enrolled students as a part of the normal program for such institutions shall be exempt. _____

Sec. 6. Application for supervisory driver-training instructor's license. (a) The application for a license as a supervisory driver-training instructor shall be made on forms supplied by the Department of Public Safety. A person is qualified to receive a supervisory driver-training instructor's license who: _____

- (1) Is at least 21 years of age; _____
- (2) Is of good moral character; _____
- (3) Is a citizen of the United States; _____
- (4) Has no contagious disease; _____
- (5) Holds a valid Texas chauffeur's license; _____
- (6) Has successfully completed three semester hours in safety education and three semester hours in driver education or their equivalent; _____
- (7) Has passed an examination conducted by the Department of Public Safety to determine his competency to obtain a license to practice as a supervisory driver-training instructor; _____
- (8) Has two years' satisfactory driving experience as approved by the Department. _____

(b) On the effective date of this Act, any person who is actually engaged or employed as a supervisory driver-training _____

instructor and has a minimum of one year's experience in such activity shall, upon application within 90 days after the effective date of this Act and payment of the required license fees, be issued a supervisory driver-training instructor's license effective no longer than one year from the date of issuance, provided, however, that the Department of Public Safety may require such applicant to submit satisfactory proof that he is so engaged and comply with the requirements set out in Section 6(a) above, except the requirement of Subsection (6). Such license shall be renewable annually so long as he complies with Department rules and regulations. _____

Sec. 7. Application for driver-training instructor's license. (a) The application for a license as a driver-training instructor shall be made on forms supplied by the Department of Public Safety. A person is qualified to receive a driver-training instructor's license who: _____

- (1) Is at least 21 years of age; _____
- (2) Is of good moral character; _____
- (3) Is a citizen of the United States; _____
- (4) Has no contagious disease; _____
- (5) Holds a valid Texas chauffeur's license; _____
- (6) Has successfully completed 40 clock hours in safety education and driver-training under the supervision of a supervisory driver-training instructor. _____

(7) Has passed an examination conducted by the Department of Public Safety to determine his competency to obtain a license to practice as an instructor; _____

(8) Has two years' satisfactory driving experience as approved by the Department. _____

(b) On the effective date of this Act, any person who is actually engaged or employed as a driver-training instructor and has a minimum of one year's experience in such activity shall, upon application within 90 days after the effective date of this Act and payment of the required license fees, be issued a driver-training instructor's license effective no longer than one year from the date of issuance, provided, however, that the Department of Public Safety may require such applicant to submit satisfactory proof that he is so engaged and comply with the requirements set out in Section 7(a) above, except the requirement of Subsection (6). Such license shall be renewable annually so long as he complies with Department rules and regulations. _____

Sec. 8. License fees. Each application for an original commercial driver-training school or branch office license shall be accompanied by a \$150 investigation fee and upon approval shall pay an annual license fee of \$200. The investigation fee shall be payable only once, at the time of the original application. The license of each commercial driver-training school or branch office may be renewed subject to the same requirements as the original license, and upon payment of the annual renewal license fee of \$200. Each application for an original supervisory instructor's or instructor's license shall be accompanied by an investigation and examination fee of \$50 and upon approval such applicant shall pay an annual license fee of \$25. The investigation and examination fee shall only be payable with the original application. No

license fee shall be refunded in the event that the license is suspended or revoked. _____

The fee for a duplicate license shall be \$2. A duplicate license may be issued to replace an original license if the original is lost or destroyed and an affidavit of such fact is made and filed with the Department. _____

All licenses issued to commercial driver-training schools, branch offices, supervisory instructors, and driver-training instructors shall expire automatically on December 31 of the calendar year for which the license was issued, unless sooner suspended or revoked as provided by this Act. _____

All fees collected under this Act shall be deposited in the State Treasury in the Operator's and Chauffeur's License Fund. _____

A commercial driver-training school or branch office license must be prominently displayed at the place of business of the commercial driver-training school or branch office. The supervisory driver-training instructor and driver-training instructor license must be carried by the instructor at all times while instructing. Each license shall be signed by the Director of the Department of Public Safety and shall be issued under the seal of the Department. _____

Sec. 9. Refusal, suspension, revocation grounds. The Department may suspend, revoke, or refuse a license to any commercial driver-training school or branch school, supervisory instructor or driver-training instructor on any one or more of the following grounds: _____

(a) When the Department is satisfied that the applicant or licensee fails to meet the requirements to receive or hold a license under this Act; _____

(b) When the applicant or licensee permits fraud or engages in fraudulent practices either with reference to the application to the Department, or induces or countenances fraud or fraudulent practices on the part of any applicant for a driver's license or permit, or permits or engages in any other fraudulent practice in any action between the applicant or licensee and the public; _____

(c) When the applicant or licensee fails to comply with the rules and regulations of the Department of Public Safety regarding the instruction of drivers in this state or fails to comply with any section of this Act. _____

Sec. 10. Hearing. (a) When there is cause to refuse an application or to suspend or revoke the license of any commercial driver-training school, branch office, supervisory driver-training instructor, or driver-training instructor, the Department, not less than 30 days before refusal, suspension, or revocation action is taken, shall notify such person in writing, in person, or by certified mail at the last address supplied to the Department by such person, of such impending refusal, suspension, or revocation, the reasons therefor, and of his right to an administrative hearing for the purpose of determining whether or not the evidence is sufficient to warrant the refusal, suspension, or revocation action proposed to be taken by the Department. If, within 20 days after the personal service of such notice or such notice has been deposited in the United States mail, such person has not made a written request to the Department for this administrative hearing, the Department is authorized to suspend or revoke the commercial driver-training school's, branch office's, supervisory driver-training instructor's, or driver-training instructor's license

without a hearing. Upon receipt by the Department of such written request of such person within the 20-day period as set out above, an opportunity for an administrative hearing shall be afforded as early as is practical. In no case shall the hearing be held less than 10 days after written notification thereof, including a copy of the charges, shall have been given the person by personal service or by certified mail sent to the last address supplied to the Department by the applicant or licensee. Administrative hearing in such cases shall be before a qualified Hearing Officer of the Department. _____

(b) The Department, represented by the Hearing Officer, shall conduct the administrative hearing and the Hearing Officer is authorized to administer oaths and issue subpoenas for the attendance of witnesses and the production of relevant books, papers, documents, etc. On the basis of the evidence submitted at the hearing, the Department shall take whatever action it deems necessary in refusing the application or suspending or revoking the license. _____

Sec. 11. Judicial review. Any person dissatisfied with the action of the Department in refusing his application, or suspending or revoking his license, or any other action of the Department, may appeal the action of the Department by filing a petition within 30 days thereafter in the district court in the county where the person resides or in the District Court of Travis County, Texas, and the court is vested with jurisdiction, and it shall be the duty of the court, to set the matter for hearing upon 10 days' written notice to the Department and the attorney representing the Department. The court in which the petition of appeal is filed shall _____

determine whether or not the suspension or revocation of the license shall be abated until the hearing shall have been consummated with final judgment thereon, or whether any other action of the Department shall be suspended pending hearing, and enter its order accordingly, which shall be operative when served upon the Department, and the court shall provide the attorney representing the Department with a copy of the petition and order. The Department shall be represented in such appeals by the district or county attorney of the county, or the Attorney General, or any of their assistants. The trial on such appeal shall be de novo as in cases appealed from the justice to the county court. _____

Sec. 12. Surrender of license. Upon the revocation or suspension of any license, the licensee shall within five days surrender the license or licenses to the Department; failure of a licensee to do so shall be a violation of this Act and upon conviction shall be subject to the penalties hereinafter set forth. The Department may restore a suspended license to the former licensee upon full compliance with the provisions of this Act. No suspension invoked hereunder shall be for a period less than 30 days nor longer than one year. _____

Sec. 13. Proceedings through the Attorney General. If any person violates any of the provisions of this Act, the Director of the Department of Public Safety shall, in the name of the State of Texas through the Attorney General of the State of Texas, apply in any district court of competent jurisdiction for an order enjoining such violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition to the court, if the _____

court or any judge thereof is satisfied by affidavit or otherwise that the person has violated this Act, it may issue a temporary injunction without notice or bond enjoining such continued violation, and if after a hearing it is established that the person violated or is violating this Act the court or any judge thereof may enter a decree perpetually enjoining the violation of or enforcing compliance with this Act. In case of violation of any order or decree issued under the provisions of this section, the court or any judge thereof may try and punish the offender for contempt of court. Proceedings under this section shall be in addition to and not in lieu of all other remedies and penalties provided by this Act. _____

Sec. 14. No motor vehicle driver-training instruction shall be conducted for hire or tuition unless in a licensed commercial driver-training school or one of its branch offices except as set out in Section 2 and in counties with a population of less than 25,000 where driver-training instruction may be given by a supervisory instructor or instructor not connected with or in a commercial driver-training school. _____

Sec. 15. Penalties. Any person who violates any provision of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county jail for a term of not to exceed six months, or both. _____

Sec. 16. Constitutionality. If any part or parts of this Act shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act. The _____

H.B. No. 568

Legislature hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts thereof would be declared unconstitutional.

Sec. 17. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended. _____

Austin, Texas

May 15, 19 67

Hon. Preston Smith
President of the Senate

Sir:

We, your Committee on State Affairs,
to which was referred H. B. No. 568, have had the same
under consideration, and I am instructed to report it back to
the Senate with the recommendation that it do _____
pass _____ and be _____ printed.

Gardeman
Chairman

ENROLLED

H.B. No. 568

AN ACT

relating to the licensing of commercial driver-training schools, supervisory driver-training instructors, and driver-training instructors by the Department of Public Safety; providing a penalty; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Definitions of words and phrases. The following words and phrases when used in this Act shall, for the purposes of this Act, have the meanings respectively ascribed to them in this section:

(a) "Commercial driver-training school" or "school" means any enterprise conducted by an individual, association, partnership, or corporation, for the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles and charging a consideration or tuition for such services.

(b) "Commercial driver-training school branch office" is a training facility operated by a commercial driver-training school at a different location than the home training facility where the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles and charging a consideration or tuition therefor is carried on.

(c) "Driver-training instructor" or "instructor" means any person who for hire or for tuition teaches, conducts classes of, gives demonstrations to, or supervises practice of persons learning to operate or drive motor vehicles.

(d) "Department" means the Department of Public Safety of this state, acting directly or through its duly authorized officers and agents.

(e) "Hearing Officer" is an officer or employee of the Department appointed by the Director, which officer or employee shall have a minimum of five years' experience as a supervisor and a thorough knowledge of this Act and the rules and regulations of the Department relative thereto.

(f) "Motor vehicle" includes every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(g) "Supervisory driver-training instructor" or "supervisory instructor" means any person who, for hire or tuition, conducts classes of, gives demonstration to, or supervises practice of persons learning to become driver-training instructors, and to operate or drive motor vehicles.

Sec. 2. A license required for commercial driver-training school. No person, firm, association, partnership, or corporation shall operate a commercial driver-training school after January 1, 1968, unless a license as a commercial driver-training school has been secured from the Texas Department of Public Safety, provided that training or classes conducted by colleges, universities, high schools, and junior high schools for regularly enrolled students as a part of the normal program for such institutions shall be exempt.

Sec. 3. Application for commercial driver-training school license. The application for a license shall be made on forms

supplied by the Texas Department of Public Safety and must state specifically the name and address of such school or training facility, and give the name and address of the person, each member of the firm or association, each member of the partnership or corporation, and of each director and officer of such corporation. The application shall also contain the following information:

- (a) The name and address of each branch office of such commercial driver-training school;
- (b) The name and address of each instructor;
- (c) Such other information relating to the operation of such school as may be required by the Texas Department of Public Safety to insure that the public interest will be protected;
- (d) An agreement that the school will be operated in conformity with the rules and regulations established by the Texas Department of Public Safety for the operation of commercial driver-training schools.

Sec. 4. Before the Department of Public Safety shall issue such license, the person, firm, association, partnership, or corporation shall:

- (a) Execute a bond in the sum of \$10,000, signed by a solvent guaranty company authorized to do business in the State of Texas, payable to the Texas Department of Public Safety, conditioned that the principal on said bond will:

- (1) Carry out and comply with each and all contracts made or entered into by said school or branch school, acting by and through its officers or agents, with any student who desires to enter such school and to take the course in driver-training; and

(2) To pay back to such student all amounts collected for tuition and fees in case of failure on the part of the school to comply with its contracts to give the instruction contracted for, and for the period evidenced by such contract on a pro rata basis.

(b) Maintain motor vehicle liability insurance covering the school, instructors, and any person taking instruction in the amount as prescribed by the Department but in no event less than \$10,000 for bodily injury to or death of one person in any one accident, and \$20,000 for bodily injury to or death of two or more persons in any one accident, and \$5,000 for damage to property in any one accident. In the event the insurance coverage hereinabove referred to is to be cancelled, a copy of the written notice of cancellation must be furnished forthwith to the Director by either registered or certified mail.

(c) Provide adequate office, classroom, and motor vehicle facilities in compliance with the rules and regulations established by the Department of Public Safety to insure that the quality of instruction and training shall not be inimical to the public interest.

(d) Comply with such other rules and regulations as may be promulgated by the Department of Public Safety to insure adequate driver instruction.

Sec. 5. License required for supervisory driver-training instructor and driver-training instructor. No person shall teach or give driver-training for hire or for tuition, either as an individual or in a commercial driver-training school, or any phase

of driver-training or education after January 1, 1968, unless a license as a driver-training instructor or supervisory driver-training instructor has been secured from the Department, provided that instructors in classes conducted by colleges, universities, high schools, and junior high schools for regularly enrolled students as a part of the normal program for such institutions shall be exempt.

Sec. 6. Application for supervisory driver-training instructor's license. (a) The application for a license as a supervisory driver-training instructor shall be made on forms supplied by the Department of Public Safety. A person is qualified to receive a supervisory driver-training instructor's license who:

- (1) Is at least 21 years of age;
 - (2) Is of good moral character;
 - (3) Is a citizen of the United States;
 - (4) Has no contagious disease;
 - (5) Holds a valid Texas chauffeur's license;
 - (6) Has successfully completed three semester hours in safety education and three semester hours in driver education or their equivalent;
 - (7) Has passed an examination conducted by the Department of Public Safety to determine his competency to obtain a license to practice as a supervisory driver-training instructor;
 - (8) Has two years' satisfactory driving experience as approved by the Department.
- (b) On the effective date of this Act, any person who is actually engaged or employed as a supervisory driver-training

instructor and has a minimum of one year's experience in such activity shall, upon application within 90 days after the effective date of this Act and payment of the required license fees, be issued a supervisory driver-training instructor's license effective no longer than one year from the date of issuance, provided, however, that the Department of Public Safety may require such applicant to submit satisfactory proof that he is so engaged and comply with the requirements set out in Section 6(a) above, except the requirement of Subsection (6). Such license shall be renewable annually so long as he complies with Department rules and regulations.

Sec. 7. Application for driver-training instructor's license. (a) The application for a license as a driver-training instructor shall be made on forms supplied by the Department of Public Safety. A person is qualified to receive a driver-training instructor's license who:

- (1) Is at least 21 years of age;
- (2) Is of good moral character;
- (3) Is a citizen of the United States;
- (4) Has no contagious disease;
- (5) Holds a valid Texas chauffeur's license;
- (6) Has successfully completed 40 clock hours in safety education and driver-training under the supervision of a supervisory driver-training instructor;
- (7) Has passed an examination conducted by the Department of Public Safety to determine his competency to obtain a license to practice as an instructor.

(8) Has two years' satisfactory driving experience as approved by the Department.

(b) On the effective date of this Act, any person who is actually engaged or employed as a driver-training instructor and has a minimum of one year's experience in such activity shall, upon application within 90 days after the effective date of this Act and payment of the required license fees, be issued a driver-training instructor's license effective no longer than one year from the date of issuance, provided, however, that the Department of Public Safety may require such applicant to submit satisfactory proof that he is so engaged and comply with the requirements set out in Section 7(a) above, except the requirement of Subsection (6). Such license shall be renewable annually so long as he complies with Department rules and regulations.

Sec. 8. License fees. Each application for an original commercial driver-training school or branch office license shall be accompanied by a \$150 investigation fee and upon approval shall pay an annual license fee of \$200. The investigation fee shall be payable only once, at the time of the original application. The license of each commercial driver-training school or branch office may be renewed subject to the same requirements as the original license, and upon payment of the annual renewal license fee of \$200. Each application for an original supervisory instructor's or instructor's license shall be accompanied by an investigation and examination fee of \$50 and upon approval such applicant shall pay an annual license fee of \$25. The investigation and examination fee shall only be payable with the original application. No

license fee shall be refunded in the event that the license is suspended or revoked.

The fee for a duplicate license shall be \$2. A duplicate license may be issued to replace an original license if the original is lost or destroyed and an affidavit of such fact is made and filed with the Department.

All licenses issued to commercial driver-training schools, branch offices, supervisory instructors, and driver-training instructors shall expire automatically on December 31 of the calendar year for which the license was issued, unless sooner suspended or revoked as provided by this Act.

All fees collected under this Act shall be deposited in the State Treasury in the Operator's and Chauffeur's License Fund.

A commercial driver-training school or branch office license must be prominently displayed at the place of business of the commercial driver-training school or branch office. The supervisory driver-training instructor and driver-training instructor license must be carried by the instructor at all times while instructing. Each license shall be signed by the Director of the Department of Public Safety and shall be issued under the seal of the Department.

Sec. 9. Refusal, suspension, revocation grounds. The Department may suspend, revoke, or refuse a license to any commercial driver-training school or branch school, supervisory instructor or driver-training instructor on any one or more of the following grounds:

(a) When the Department is satisfied that the applicant or licensee fails to meet the requirements to receive or hold a license under this Act;

(b) When the applicant or licensee permits fraud or engages in fraudulent practices either with reference to the application to the Department, or induces or countenances fraud or fraudulent practices on the part of any applicant for a driver's license or permit, or permits or engages in any other fraudulent practice in any action between the applicant or licensee and the public;

(c) When the applicant or licensee fails to comply with the rules and regulations of the Department of Public Safety regarding the instruction of drivers in this state or fails to comply with any section of this Act.

Sec. 10. Hearing. (a) When there is cause to refuse an application or to suspend or revoke the license of any commercial driver-training school, branch office, supervisory driver-training instructor, or driver-training instructor, the Department, not less than 30 days before refusal, suspension, or revocation action is taken, shall notify such person in writing, in person, or by certified mail at the last address supplied to the Department by such person, of such impending refusal, suspension, or revocation, the reasons therefor, and of his right to an administrative hearing for the purpose of determining whether or not the evidence is sufficient to warrant the refusal, suspension, or revocation action proposed to be taken by the Department. If, within 20 days after the personal service of such notice or such notice has been deposited in the United States mail, such person has not made a written request to the Department for this administrative hearing, the Department is authorized to suspend or revoke the commercial driver-training school's, branch office's, supervisory driver-training instructor's, or driver-training instructor's license

without a hearing. Upon receipt by the Department of such written request of such person within the 20-day period as set out above, an opportunity for an administrative hearing shall be afforded as early as is practical. In no case shall the hearing be held less than 10 days after written notification thereof, including a copy of the charges, shall have been given the person by personal service or by certified mail sent to the last address supplied to the Department by the applicant or licensee. Administrative hearing in such cases shall be before a qualified Hearing Officer of the Department.

(b) The Department, represented by the Hearing Officer, shall conduct the administrative hearing and the Hearing Officer is authorized to administer oaths and issue subpoenas for the attendance of witnesses and the production of relevant books, papers, documents, etc. On the basis of the evidence submitted at the hearing, the Department shall take whatever action it deems necessary in refusing the application or suspending or revoking the license.

Sec. 11. Judicial review. Any person dissatisfied with the action of the Department in refusing his application, or suspending or revoking his license, or any other action of the Department, may appeal the action of the Department by filing a petition within 30 days thereafter in the district court in the county where the person resides or in the District Court of Travis County, Texas, and the court is vested with jurisdiction, and it shall be the duty of the court, to set the matter for hearing upon 10 days' written notice to the Department and the attorney representing the Department. The court in which the petition of appeal is filed shall

determine whether or not the suspension or revocation of the license shall be abated until the hearing shall have been consummated with final judgment thereon, or whether any other action of the Department shall be suspended pending hearing, and enter its order accordingly, which shall be operative when served upon the Department, and the court shall provide the attorney representing the Department with a copy of the petition and order. The Department shall be represented in such appeals by the district or county attorney of the county, or the Attorney General, or any of their assistants. The trial on such appeal shall be de novo as in cases appealed from the justice to the county court.

Sec. 12. Surrender of license. Upon the revocation or suspension of any license, the licensee shall within five days surrender the license or licenses to the Department; failure of a licensee to do so shall be a violation of this Act and upon conviction shall be subject to the penalties hereinafter set forth. The Department may restore a suspended license to the former licensee upon full compliance with the provisions of this Act. No suspension invoked hereunder shall be for a period less than 30 days nor longer than one year.

Sec. 13. Proceedings through the Attorney General. If any person violates any of the provisions of this Act, the Director of the Department of Public Safety shall, in the name of the State of Texas through the Attorney General of the State of Texas, apply in any district court of competent jurisdiction for an order enjoining such violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition to the court, if the

court or any judge thereof is satisfied by affidavit or otherwise that the person has violated this Act, it may issue a temporary injunction without notice or bond enjoining such continued violation, and if after a hearing it is established that the person violated or is violating this Act the court or any judge thereof may enter a decree perpetually enjoining the violation of or enforcing compliance with this Act. In case of violation of any order or decree issued under the provisions of this section, the court or any judge thereof may try and punish the offender for contempt of court. Proceedings under this section shall be in addition to and not in lieu of all other remedies and penalties provided by this Act.

Sec. 14. No motor vehicle driver-training instruction shall be conducted for hire or tuition unless in a licensed commercial driver-training school or one of its branch offices except as set out in Section 2 and in counties with a population of less than 25,000 where driver-training instruction may be given by a supervisory instructor or instructor not connected with or in a commercial driver-training school.

Sec. 15. Penalties. Any person who violates any provision of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county jail for a term of not to exceed six months, or both.

Sec. 16. Constitutionality. If any part or parts of this Act shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act. The

H.B. No. 568

Legislature hereby declares that it would have passed the remaining parts of this Act if it had known that such part or parts thereof would be declared unconstitutional.

Sec. 17. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended.

Lieutenant Governor
President of the Senate

Speaker of the House

I hereby certify that H.B. No. 568 was passed by the House on May 1, 1967, by a non-record vote.

Chief Clerk of the House

I hereby certify that H.B. No. 568 was passed by the Senate on May 19, 1967, by a viva-voce vote.

Secretary of the Senate

APPROVED: 5-30-67

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
3:30pm O'CLOCK

John Connally

Governor

John L. Hill

Secretary of State

MAY 30 1967

H.B. No. 568 By Wayne - Crews

C

A BILL TO BE ENTITLED

AN ACT

relating to the licensing of
commercial driver training schools
and driver training instructors by
the Department of Public Safety;
and declaring an emergency.

FILED FEB 15 1967

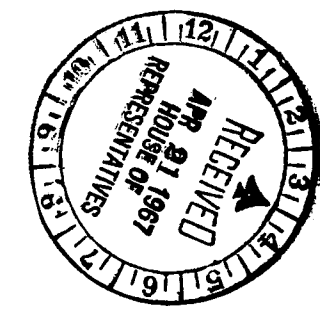
FEB 16 1967 READ 1ST TIME
AND REFERRED TO COMMITTEE ON
Highways & Roads

APR 20 1967 REPORTED FAVORABLY AS AMENDED

PRINTED, DISTRIBUTED AND

REFERRED TO COMMITTEE ON

RULES 3:30 P M, APR 21 1967
(Time) (Date)



MAY 1 1967

READ SECOND

TIME Amended AND

ORDERED non-record vote ENGROSSED, by

Dorothy Hallman

Chief Clerk, House of Representatives

MAY 1 1967

Constitutional

Rule requiring bills to be read on
three several days suspended by
A four-fifths vote.

Yeas 138 Nays 3

Dorothy Hallman

Chief Clerk, House of Representatives



SENT TO PRINTER

MAY 1 1967

Read third time

Non-record and Passed
by following vote: yeas _____

Nays _____

Dorothy Hallman

Chief Clerk
HOUSE OF REPRESENTATIVES

P.M.

(over)

MAY 1 1967

MOTION TO RECONSIDER THE VOTE BY
WHICH HB# 568 WAS
~~ADOPTED~~ / PASSED AND TO TABLE THE MOTION TO RECON-
SIDER PREVAILED ~~PASSED~~ BY A Non-record VOTE ~~BY~~

Dorothy Hallman
CHIEF CLERK HOUSE OF REPRESENTATIVES

MAY 1 1967

SENT TO ENGROSSING CLERK

579
895

C A BILL TO BE ENTITLED

AN ACT

relating to the licensing of commercial driver-training schools, supervisory driver-training instructors, and driver-training instructors by the Department of Public Safety; providing a penalty; and declaring an emergency. _____

- 2-15-67 Filed. _____
- 2-16-67 Read first time and referred to Committee on Highways and Roads. _____
- 4-20-67 Reported favorably as amended, sent to printer. _____
- 4-21-67 Printed, distributed and referred to Committee on Rules at 3:30 p.m. _____
- 5- 1-67 Read second time, amended and ordered engrossed by a non-record vote. _____
- 5- 1-67 Constitutional Rule requiring bills to be read on three several days suspended by a four-fifths vote: Yeas 138, Nays 3. _____
- 5- 1-67 Read third time and passed by a non-record vote. _____

Dorothy Hallman
Chief Clerk, H. of R.

- 5- 1-67 Sent to Engrossing Clerk. _____
- 5- 1-67 Engrossed. _____

Area Suggins
Engrossing Clerk, H. of R.

MAY 2 1967 RETURNED FROM ENGROSSING CLERK SENT TO THE SENATE

MAY 2 1967
IN THE SENATE
Received from the House

MAY 19 1967
READ SECOND TIME, _____
AND PASSED TO THIRD READING.

MAY 4 1967 Read first time
and referred to Committee
on State Affairs

MAY 19 1967
Senate Rule 32 and
Constitutional Rule (Sec. 32, Art. III)
suspended by a vote of 29 yeas,
0 nays, to place bill on third
reading and final passage.

MAY 15 1967
Reported Favorably

MAY 19 1967
READ THIRD TIME AND
PASSED BY A VIVA-VOCE VOTE:

Charles Schnabel
Secretary of the Senate.

MAY 19 1967
Regular order of business sus-
pended by unanimous consent to
permit consideration.

MAY 19 1967 SENT TO HOUSE

MAY 19 1967
RETURNED FROM SENATE

Dorothy Hallman

Chief Clerk, House of Representatives

MAY 19 1967 **SENT TO ENROLLING CLERK**